No. 763

In the Supreme Court of the United States

OCTOBER TERM, A.D. 1968

BERNHARD ROSEE,

Petitioner,

VS.

BOARD OF TRADE OF THE CITY OF CHICAGO, an Illinois corporation; JAMES E. BAGGOT, JR., and DONALD W. MORRISON, individually and d/b/a BAGGOT & MORRISON; HARRIS HAYWOOD; SIDNEY C. HAMPER, MARTIN H. MILEK, ROY C. LOFTUS, RICHARD ROSE, RAYMOND COMENZO, and THOMAS HERR, individually and as members of the Committee of Arbitration of the Board of Trade of the City of Chicago; JULIUS MAYER; WILBERT E. HUGE; ROBERT L. DAVID; THOMAS E. HOSTY; ROBERT C. LIEBENOW, individually and as President of the Board of Trade of the City of Chicago; WARREN W. LEBECK, individually and as Secretary of the Board of Trade of the City of Chicago; JAMES J. COUGHLIN; ALBERT W. KIBBY; and SAM GORDON,

Respondents.

On Petition For A Writ Of Certiorari To The United States Court Of Appeals For The Seventh Circuit

MOTION FOR LEAVE TO FILE AN AMENDMENT TO PETITION FOR WRIT OF CERTIORARI TO THE UNITED STATES COURT OF APPEALS FOR THE SEVENTH CIRCUIT

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NOW COMES the petitioner, *pro se,* and respectfully moves this Court to file an amendment to his Petition in this Court, and states that the original Petition inadvertently omitted certain important factors necessary for this Court's consideration. Those matters are as follows:

Refusal by the Court of Appeals to review the Lower Court's decision against the Board of Trade is against the interest of the public.

The Trial Court determined and decided that an Account No. 35 showing a $19,000 loss belonged to plaintiff-appellant, and the Trial Court refers to Account No. 35 108 times in thirty-two pages of its Opinion. See Court of Appeals, App. pp. 55, 57, 58, 59, 61, 62, 64, 65, 66, 70, 74, 77, 78, 82, 83, 85, 86, 89, 90, 95, 97, 105, 106, 117, 120, 121, 122, 123, 125, 126, 127, and 128. (See especially App. p. 61.)

On page 30 of Court of Appeals Supplemental App. of Plaintiff-Appellant (Consolidated Appeals Nos. 15886 and 16373) the actual document reflecting Account No. 35 is shown without any identifying name and address. This is contrary to the wish of Congress and in direct violation of Sec. 1.37 of the Commodity Exchange Act which reads as follows:

> **"Sec. 1.37 Customer's name, address and occupation recorded: record of guarantor of controller of account. Each futures commission merchant and each member of a contract market shall keep a record in permanent form which shall show for each commodity futures account carried by him the true name and address of the person for whom such account is carried and the principal occupation or business of such person as well as the name of any other person guaranteeing such account or exercising any trading control with respect to such account. Such record shall be open to inspection by any authorized representative of the Commodity Exchange Authority."**

Petitioner explained this violation (page 24 of his Amended Brief in the Court of Appeals). However, the Court of Appeals refused to take any notice of this explanation and ignored this fraud and conspiracy against the plaintiff-appellant.

The Trial Court also chose to ignore (Appendix pp. 120 and 121) plaintiff-appellant's contention that the combining of two accounts (Nos. 35 and 45) was in violation of the Commodity Exchange Act Regulations prohibiting changing of account numbers. The Court stated that Rosee's contentions regarding CEA Regulations are incorrect, that the prohibition applies only to the "confidential" reporting numbers issued by the CEA Administrator, not to account numbers used for internal purposes in a brokerage firm.

For the Court's information, Sec. 17.01 of the Commodity Exchange Act as Amended states as follows:

> **Sec. 17.01. Special Account designation and identification. For the purpose of reporting, each futures commission merchant and each foreign broker shall assign a number to each Special Account and shall report such account only by such number. When a Special Account is reported for the first time, the futures commission merchant or foreign broker shall execute CEA Form 102, showing the information requested thereon, including the names and addresses of all persons known to have a financial interest in or control over the account to which the number has been assigned, and shall transmit the same with the report but in a separate sealed envelope marked "confidential." No account number shall be changed or assigned to another account without the prior approval of the Act Administrator. (Emphasis added)**

The Supreme Court of the United States should therefore decide in the public interest: (1) Does the CEA permit an account without any name or address; and (2) can two accounts be combined, contrary to Sec. 17.01 of the Commodity Exchange Act Regulations.

These are the very things that Congress attempted to prevent in protecting the interest of the public when they laid down their regulations as to the manner in which books and records were to be kept. Petitioner is a victim of these violations and the conspiracy to cheat and defraud him through the use of these violations. He was foreclosed from obtaining records, through proper discovery procedures, to prove the conspiracy against him. (See Supp. App. Ct. of Appeal 85-92, 97-98).

Respectfully submitted,

.....

BERNHARD ROSEE, *Pro se.*